

Department of Energy

§ 719.10

§ 719.4 Are law firms that are retained by the Department covered by this part?

Retained legal counsel under fixed rate or other type of contract with the Department itself to provide legal services must comply with the following where the legal costs over the life of the matter for which counsel has been retained are expected to exceed \$100,000:

- (a) Requirements related to staffing and resource plans in subpart B of this part,
- (b) Engagement letter requirements if legal work is contracted out, and
- (c) Cost guidelines in subpart D of this part.

§ 719.5 What contracts are not covered by this part?

This part does not cover:

- (a) Fixed price contracts;
- (b) Cost reimbursement contracts for an amount less than \$100,000,000; or
- (c) Contracts for an amount exceeding \$100,000,000 involving work not performed at a government owned or leased site.

§ 719.6 Are there any types of legal matters not included in the coverage of this part?

Matters not covered by this part include:

- (a) Matters handled by counsel retained by an insurance carrier;
- (b) Routine intellectual property law support services;
- (c) Routine workers and unemployment compensation matters and labor arbitrations; and
- (d) Routine matters handled by counsel retained through a GSA supply schedule.

§ 719.7 Is there a procedure for exceptions or deviations from this part?

(a) Requests for exceptions or deviations from this part by contractors must be made in writing to Department counsel and approved by the General Counsel. If an alternate procedure is proposed for compliance with an individual requirement in this part, that procedure must be included in the written request by the contractor.

(b) The General Counsel may authorize exceptions based on a recommenda-

tion of Department counsel. The General Counsel may also establish exceptions to this part based on current field office and contractor practices which satisfy the purpose of these requirements.

(c) Exceptions to this part which are also a deviation from the cost principles (see subpart D of this part) must be approved by the Procurement Executive. See 48 CFR (FAR) 31.101. Written requests from contractors for a deviation to a cost principle must be submitted to the contracting officer, with a copy provided to Department counsel.

Subpart B—Legal Management Plan

§ 719.10 What information must be included in the legal management plan?

The legal management plan must include the following items:

(a) A description of the legal matters that may necessitate handling by retained legal counsel.

(b) A discussion of the factors the contractor must consider in determining whether to handle a particular matter utilizing retained legal counsel.

(c) An outline of the factors the contractor must consider in selecting retained legal counsel, including:

- (1) Competition;
- (2) Past performance and proficiency shown by previously retained counsel;
- (3) Particular expertise in a specific area of the law;
- (4) Familiarity with the Department's activity at the particular site and the prevalent issues associated with facility history and current operations;
- (5) Location of retained legal counsel relative to:
 - (i) The site involved in the matter,
 - (ii) Any forum in which the matter will be processed, and
 - (iii) Where a significant portion of the work will be performed;
- (6) Experience as an advocate in alternative dispute resolution procedures such as mediation;
- (7) Actual or potential conflicts of interest; and